

Notice of Allowability

Application No.

10/730,005

Examiner

Matthew J Kremer

Applicant(s)

STEUER ET AL.

Art Unit

3736

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to _____.
2. ☒ The allowed claim(s) is/are 8 and 9.
3. ☒ The drawings filed on 09 December 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 12/09/03
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

The first sentence of the specification, as amended by the preliminary amendment filed on 12/9/2003, was amended as follows:

The present patent application is a divisional of Application No. 09/750,076, filed December 29, 2000, now Pat No. 6,725,072 , which is incorporated herein by reference ~~[[in]]~~ in its entirety.

Inventorship

2. In view of the papers filed 7/2/2004, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by the addition of Louis L. Barrett.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Drawings

3. The drawings were received on 12/9/2003. These drawings are acceptable.

REASONS FOR ALLOWANCE

4. The following is an examiner's statement of reasons for allowance. U.S. Patent 6,377,829 to Al-Ali teaches a medical device to be secured to the skin of a patient to measure a physical parameter comprising: a substrate having a skin surface and an exterior surface; a flexible circuit board mounted on the exterior surface; conductive paint deposited on the circuit board to define a circuit that operates to allow calibration of the medical device when the circuit is complete and prevents calibration of the medical device when a portion of the conductive paint is removed from the circuit board; and an aperture formed through the substrate to provide a passage from the skin surface to the conductive path. (Figs. 3-4 of Al-Ali). Al-Ali does not teach a plug positioned within the aperture to adhere to the conductive paint and a removable protective layer secured to the plug.

U.S. Patent 6,792,390 to Burnside et al. (Burnside) teaches a medical device with a circuit (the probe usage limitation component 51), which is a disabling circuit. The activation of which disables the probe identification component 50 by modifying the manner in which the probe identification component 50 functions. Burnside does not teach an aperture, a plug and a removable protective layer secured to the plug.

U.S. Patent 5,526,300 to Kiani et al. (Kiani) teaches a medical device to be secured to the skin of a patient to measure a physical parameter comprising: a

substrate 205 having a skin surface and an exterior surface (Fig. 2A of Kiani); a flexible circuit board 210 mounted on the exterior surface (Fig. 2A of Kiani); conductive paint deposited on the circuit board to define a circuit that operates to allow calibration of the medical device when the circuit is complete and prevents calibration of the medical device when a portion of the conductive paint is removed from the circuit board (electrical contacts 341 and 342 in Fig. 3D of Kiani); and an aperture formed through the substrate to provide a passage from the skin surface to the conductive path. Kiani does not teach a plug positioned within the aperture to adhere to the conductive paint and a removable protective layer covering the skin surface of the substrate and secured to the plug so that when the protective layer is removed the plug remains secured to the protective layer resulting in removal of a portion of the conductive paint to prevent calibration of the medical device.


Thus, the prior art does not teach or suggest the elements of a plug positioned within the aperture to adhere to the conductive paint and a removable protective layer secured to the plug so that when the protective layer is removed the plug remains secured to the protective layer resulting in the removal of a portion of the conductive paint to prevent calibration of the medical device that are combined or combinable with the other limitations of claim 8.


Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J Kremer whose telephone number is 571-272-4727. The examiner can normally be reached on Mon. through Fri. between 8:30 a.m. - 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 571-272-4726. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Matthew Kremer
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Art Unit 3736


ERIC WINAKUR
PRIMARY EXAMINER